



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 22, 1994

Ms. Alesia L. Sanchez
Legal Assistant
Legal Services, 110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR94-571

Dear Ms. Sanchez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 27243.

The Texas Department of Insurance ("the department") received a request for certain information concerning complaints against Financial Review Services, Inc., including the name of the complainants. You say the department will release portions of the requested information, but seek to withhold any information revealing the source of the complaints against Financial Review Services, Inc., based on section 552.101 of the Government Code.

Section 552.101 of the Government Code excepts from required public disclosure information considered confidential by law. The department seeks to withhold information that reveals the source of the complaints under section 552.101 for two reasons. The department first contends that the information is protected from required public disclosure based on the informer's privilege. The department also asserts that the information is made confidential by article 1.10D, section 5(a) of the Insurance Code.

Section 5(a) of article 1.10D of the Insurance Code provides as follows:

Any information or material acquired by the department that is relevant to an inquiry by the insurance fraud unit is not a public record for as long as the commissioner considers reasonably necessary to complete the investigation, protect the person under investigation from unwarranted injury, or serve the public interest.

The information or material is not subject to a subpoena by another governmental entity, except a valid grand jury subpoena, until released for public inspection by the commissioner or, after notice and a hearing, a district court determines that the public interest and any investigation by the commissioner would not be jeopardized by obeying the subpoena.

The requested information appears to be relevant to an inquiry by the insurance fraud unit. Senior Associate Commissioner Mary Keller states in her letter to this office that "[i]t is reasonably necessary to withhold this information in order to serve the public interest." Thus, section 5(a) of article 1.10D applies to the information. *See* Open Records Decision No. 608 (1992). Accordingly, the department must withhold the information about the source of the complaints under section 552.101 of the Government Code as information made confidential by statutory law. Having concluded that the department must withhold the requested information based on section 552.101 in conjunction with section 5(a) of article 1.10D of the Insurance Code, we need not address your assertion that the requested information is protected under the informer's privilege.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kay Guajardo". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kay Guajardo
Assistant Attorney General
Open Government Section

KHG/JET/rho

Ref.: ID# 27243

Enclosures: Submitted documents

cc: Mr. Michael P. Lewis
President
Financial Review Services, Inc.
Five Post Oak Park, Suite 2250
Houston, Texas 77027
(w/o enclosures)